

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

vs.

CRIMINAL NO. 1:18CR141-LG-RHW

TARYN GOIN NAIDOO

**MOTION TO DISMISS PURSUANT TO FED. R. CRIM. PRO. 12(b)(3)(E), POSSIBLE
BRADY VIOLATIONS, AND UNEXCUSABLE GOVERNMENT DELAY IN TIMELY
ADVISING DEFENDANT OF THE EXISTENCE OF DISCOVERABLE MATERIAL**

Comes the Defendant Taryn Goin Naidoo, through counsel, and moves the Court dismiss the indictment against him, and says:

1. Fed. R. Crim. Pro. 16(a)(1)(B) provides for the timely disclosure of statements of a defendant.
2. *Brady v. Maryland* provides for disclosure of exculpatory material.
3. The Due Process Rights of the defendant require timely disclosure of such material.
4. On Wednesday, November 27, 2019 at approximately noon, AUSA Jones sent an email to defense counsel advising the existence of a “phone dump” of Lori Brasher’s phone. Ms. Brasher is the accuser in this case. The email is attached as Exhibit 1 to this pleading.
5. Upon receiving the email from AUSA Jones, counsel engaged her in a phone conversation. During this conversation, counsel was advised that the accuser’s phone had been imaged or “dumped,” and there were text messages between Brasher and Defendant Naidoo. Counsel was also advised of the following regarding Brasher’s phone:
 - a. It had been in the exclusive possession of the Government for some length of time (probably since September 2019, when it was obtained from Brasher);

- b. HSI said the phone was broken and that the local computer forensics person was unable to image the phone;
- c. The phone was sent to the Child Exploitation and Obscenity Section's (CEOS) of the DOT;
- d. After delay the phone was repaired and imaged and, presumably, these images were examined;
- e. Thereafter, a thumbdrive was sent with some of the images to AUSA Jones, who wrote and sent the attached email.

Counsel was finally able to receive this material at approximately 11 a.m. on December 2, and based on a cursory review, it appears that there is a voluminous amount of material, consisting of approximately 25,315 messages. AUSA Jones has advised that the content includes text and other messages between Defendant Naidoo and Brasher, that the messages are more complete than the text from Defendant Naidoo's phone.

- 6. At no time before November 27 was counsel advised that the Government had the phone, that it contained statements of Defendant Naidoo, that there was possibly *Brady* material on the phone, and as of the writing of this motion, counsel is trying to cope with this voluminous material less than one week before trial.
- 7. There have been a number of delays in trying this case, occasioned by the Government's failure to timely and completely investigate this case. A few counsel recalls are: September 2019 for the dump of Naidoo's phone; October 2019 for the "body camera video; and October 2019 for the absent witness Officer Butte. There was a motion to continue filed by the Government which was opposed by Naidoo. Now, with mere days left until trial, there is a new roadblock.

8. Based on the situation outlined above, and the past lack of action by the Government in timely investigating this case and the timely turning over of required discovery,

Defendant Naidoo asks this Court to dismiss this case and to do so with prejudice.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that this Court enter an order dismissing the indictment against Defendant Naidoo with prejudice.

Respectfully submitted, this the 2nd day of December, 2019.

By: /s/ Peter H. Barrett
PETER H. BARRETT (MSB #2069)

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CERTIFICATE OF SERVICE

I, Peter H. Barrett, do hereby certify that I have this date electronically filed the foregoing motion with the Clerk of the Court using the Electronic Case Filing (ECF) system, which sent notification of such filing to all counsel of record.

THIS, the 2nd day of December, 2019.

/s/ Peter H. Barrett
PETER H. BARRETT